

IOWA PUBLIC INFORMATION BOARD[497]

Adopted and Filed

Rule making related to delegation of advisory opinions

The Iowa Public Information Board (IPIB) hereby amends Chapter 1, “Organization and General Administration,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 23.6(2).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 23.6(3).

Purpose and Summary

The purpose of this rule making is to allow the IPIB Executive Director to delegate preparation of an advisory opinion. Currently, only the IPIB Executive Director is allowed to prepare an advisory opinion.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 13, 2021, as **ARC 5377C**. No comments were received from the public. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by IPIB on March 18, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition IPIB for a waiver of the discretionary provisions, if any, pursuant to 497—Chapter 9.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on May 26, 2021.

The following rule-making action is adopted:

Amend subrule 1.3(2) as follows:

1.3(2) After receiving an opinion request, the board's executive director shall ~~prepare~~ cause to be prepared a draft opinion for board review. If the same or similar issue has been addressed in an opinion of a court, or in an attorney general's opinion, or in another prior advisory opinion, the executive director may respond to the requester by sending a copy of the prior opinion. Upon an affirmative vote of at least five members, the executive director shall issue a board advisory opinion on behalf of the board. Advice contained in a board opinion rendered to a government official or a lawful custodian of a public record, if followed, constitutes a defense for the government official or lawful custodian before the board to a subsequent complaint that is based on the same facts and circumstances. Board staff may also provide written advice on routine matters. However, such advice is not an advisory opinion of the board.

[Filed 3/22/21, effective 5/26/21]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/21/21.